

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

CATHERINE RICHMOND, §
§
Plaintiff, §
§
v. § Case No. 1:18-cv-1067
§
SOUTHWEST AIRLINES CO., §
§
Defendant. §
§
§
§

NOTICE OF REMOVAL PURSUANT TO 28 U.S.C. § 1441(a)

PLEASE TAKE NOTICE that defendant Southwest Airlines Co. hereby removes to this Court the state court action described below.

1. On November 9, 2018, Plaintiff Catherine Richmond commenced an action in Precinct 1 of the Justice Court of Williamson County, State of Texas, Case No. 1JC-18-1966 (“Richmond Action”). Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon Defendant in the action are attached to this notice collectively as Exhibit 1.

2. Defendant was served with the citation and petition (“Richmond Complaint”) in the Richmond Action on November 14, 2018. This notice is therefore timely under 28 U.S.C. § 1446(b).

3. The Richmond Complaint references a federal class action settlement by Southwest Airlines concerning a proceeding in the United States District Court for the District of Columbia based on federal antitrust claims under the Sherman Act, 15 U.S.C. § 1, *et seq.* See *In re: Domestic Airline Travel Antitrust Litig.*, 15-mc-01414 (D.D.C.). In the federal litigation,

passengers initially filed more than 100 putative class actions alleging that the Defendant airlines colluded to restrict capacity. On October 13, 2015, the Judicial Panel on Multi-District Litigation consolidated an MDL in the District of Columbia District Court and transferred all tag-along actions to that court. On March 25, 2016, the Class Plaintiffs filed a Consolidated Amended Complaint in the MDL, alleging that the Defendant airlines conspired to restrict capacity in violation of the federal antitrust laws. The Class Plaintiffs brought their claims on behalf of a class of persons who purchased tickets for domestic airline travel on the Defendants' airlines. Southwest reached a class settlement with the Class Plaintiffs, and the district court certified a settlement class of all persons and entities that purchased tickets for domestic airline travel on the Defendants' airlines between July 1, 2011 and December 20, 2017 and granted preliminary approval of the settlement. Notice was recently published to the settlement class, and class members have the right to opt out of the settlement and file separate direct actions.

4. The Richmond Complaint's factual allegations, plus its expressed relationship to the federal settlement that Defendant reached with Class Plaintiffs, demonstrates that the Richmond Complaint asserts a claim for violation of federal antitrust law identical to the federal claims alleged in the Consolidated Amended Complaint filed by Class Plaintiffs in the MDL. Indeed, the Richmond Complaint was filed at the same time that two other complaints were filed against Southwest Airlines in the Justice Court of Williamson County that either expressly reference the federal antitrust class action and settlement or reference Southwest flights that were taken during the relevant class period. *See* State Court Petitions of Elizabeth Montgomery, Case No. 1JC-18-1965, and Joseph Hall, Case No. 1JC-18-1964, attached as Exhibits 2 and 3.¹

¹ The relationship between these petitions is evident: Joseph Hall's petition is signed by Catherine Richmond and both Catherine Richmond and Joseph Hall reside at the same address.

5. Federal law permits removal to federal court of any civil action brought in state court “of which the district courts of the United States have original jurisdiction.” 28 U.S.C. § 1441(a). The United States district courts have jurisdiction over alleged violations of federal antitrust law. 28 U.S.C. 1331; 15 U.S.C. § 1, *et seq.*

6. Counsel for Defendant certifies that a copy of this Notice of Removal is being filed with the Clerk of Precinct 1 of the Justice Court of Williamson County, State of Texas, Case No. 1JC-18-1966 and is being served on Plaintiff.

WHEREFORE, Defendant gives notice that the above-described action pending against it in Precinct 1 of the Justice Court of Williamson County, State of Texas, Case No. 1JC-18-1966, is removed to this Court.

Dated: December 11, 2018.

Respectfully submitted,

/s/ Marisa Secco

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Counsel for Defendant Southwest Airlines Co.

CERTIFICATE OF SERVICE

I certify that on December 11, 2018, a true and correct copy of the foregoing document was filed with the Court using the Court's CM/ECF system and was served upon the following party as indicated below:

Catherine Richmond
8061 Mozart Street
Round Rock, TX 78665

By U.S. First Class Mail

/s/ Marisa Secco

Marisa Secco